

CONSERVATORSHIP

1

Petition for Approval of Annual Account

Part 1 of 2: The Court Papers
(INSTRUCTIONS)

Self Service Center

CONSERVATORSHIP

PETITION FOR APPROVAL OF ANNUAL ACCOUNT

PART 1: Instructions

How to assemble these documents

This packet contains general information and/or instructions to get a court order to approve the annual account, **but not** forms for notice. Be sure the documents are in the following order:

Order	File Number	Title	No. Pp.
1	PBGCF9it	Table of instructions in this packet	1
2	PBGCF90p	Procedures: When and How to File <i>"Petition for Approval of Annual Accounting and Approval of Fees"</i>	3
3	PBGCF92i	Instructions: <i>"Simplified Accounting Guidelines for Probate Accounts"</i>	4
4	PBGCF93h	<i>"Fiduciary Fee Guidelines - October 1994"</i>	4

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Self-Service Center
**PROCEDURES: WHEN AND HOW TO FILE
PETITION FOR APPROVAL OF ANNUAL ACCOUNTING,
AND APPROVAL OF FEES (if applicable)**

WHEN TO FILE THE PETITION FOR APPROVAL OF ANNUAL ACCOUNTING OR FEES. Follow the instructions below to find out what forms you need to complete and how often you must do so.

- A. Petition for Approval of Accounting:** Every year, (*pursuant to A.R.S. 14-5419 and Local Rules of Practice for Maricopa County, Rule 5.16*), the conservator must file a Petition to ask the court to approve how money was managed for the **Protected Person**. *The accounting is due within ninety (90) days of the closing date of the accounting period, unless otherwise ordered by the Court.* To help you complete the Petition you should read and follow the ACCOUNTING GUIDELINES in this packet.
- B. Fee Statement:** Every year, if the conservator or anyone else is charging fees to the estate of the **Protected Person**. The Petition must also include a request for approval of the FEE STATEMENT, and attach a copy of the FEE STATEMENT. See the Fiduciary Fee Guidelines included in this packet to help you with this, if you are not sure.
- C. Estate Management Plan:** Every year that you are required to file an Accounting, you **must** also file an Estate Management Plan.
- D. Annual Report of Guardian:** Every year, if you as the conservator are also guardian for the person, you **must** file the ANNUAL REPORT OF THE GUARDIAN at the same time you file the Petition for Approval. See the Self-Service Packet called ANNUAL REPORT OF THE GUARDIAN.

HOW TO FILE THE PETITION FOR APPROVAL OF ANNUAL ACCOUNTING OR FEES.

STEP 1 COMPLETE THE PETITION FOR APPROVAL OF ACCOUNTING AND/OR FEES:

Complete the Petition, the Accounting and the Account Summary. If you are claiming fees, you must also complete the FEE STATEMENT.

STEP 2 COPIES. Make copies of **all** of the documents: one set for you, one set for the Court Accountant, and one set for each of the interested parties. ***YOU MUST ATTACH FINANCIAL STATEMENT COPIES RECONCILING THE ENDING BANK AND INVESTMENT ACCOUNT BALANCES TO THE COPY OF THE ACCOUNTING THAT WILL BE GIVEN TO THE COURT ACCOUNTANT. These copies will be kept secure and confidential. DO NOT ATTACH OR FILE ANY FINANCIAL STATEMENTS WITH THE ORIGINAL ACCOUNTING FILED WITH THE PROBATE CLERK.***

STEP 3 FILE THE DOCUMENTS WITH THE COURT: Follow carefully the following steps:

- File the **original accounting** with the Probate Clerk of Court. Go to the same court location where your case is pending (Phoenix or Mesa).
- Bring the extra copies of the Petition, the Accounting, the Estate Management Plan and the Fee Statement (if applicable) for the Clerk to conform (date-stamp).

The Probate Clerk of the Court will file the original and deliver a copy to Court Accountant. The Probate Clerk will give the copies for you and the other interested parties back.

- If you cannot or do not want to file the copies in person, you can also mail the documents to the Probate Clerk at the same location where your case is pending. Include a self-addressed stamped envelope so that the Clerk can return your conformed copies to you.

YOU MUST PROVIDE AN ORIGINAL AND 2 COPIES OF THE "COURT ORDER REGARDING PETITION FOR APPROVAL OF ACCOUNTING" TO THE COURT ACCOUNTANTS FOR REVIEW, ALONG WITH THE COPY OF THE ACCOUNTING AND FINANCIAL STATEMENT COPIES INTENDED FOR THE COURT ACCOUNTANT.

FEES: When you file the Petition for Approval, you will be required to pay \$250.00 for the review of the court papers by the Court Accountant. If the estate cannot afford this expense, ask the Probate Clerk of Court for the papers to have the fee deferred by the Court.

After the Court Accountant completes a review of your case, you will receive a written notice from the Court. You will receive one of two possible notices:

Notice 1: You will be asked to file a **Response to the Court Accountant Report** if the Court Accountant has concerns about the report. If you are required to file a Response to the Court Accountant Report, you must send a copy of the Response to Court Accountant Report to the same people entitled to receive the NOTICE OF HEARING (notice is explained below). Bring the **original plus at least three (3) copies** to the Probate Clerk of the Court for filing and distribution of copies in the same manner explained above.

OR

Notice 2: If the Court Accountant does not have concerns and recommends approval of your Accounting, the Court will set a non-appearance hearing and will notify you by mail of the date, time, place, and the Judge/Commissioner assigned to your case for the non-appearance hearing. In some cases, the Court may set a hearing and require you to file a **Response to Court Accountant Report**.

STEP 4 GIVE NOTICE OF THE "NON-APPEARANCE" HEARING TO EVERYONE

ENTITLED TO NOTICE: After you receive the information about the date, time, and place of the "non-appearance" hearing, you must NOTICE OF HEARING and a copy of the Accounting by mail or delivery to all interested persons. Be sure that you do this at least **14 days** before the hearing. For more information about notice, see the Self-Service Center packet about Giving Notice to the Parties. If mailing the Notice, first class postage-prepaid mail is sufficient. Certified or Registered mail with return receipt is an extra step you can take to prove that the person you wanted to have notice actually did get the notice.

The people you should give notice to are:

- All ward(s) (protected person(s)). This includes a minor if he or she is 14 years or older.
- The guardian, if the person has one, **unless** it is the same person as the conservator;
- If there is no guardian or if the guardian is also the conservator, then to the spouse.
- If the spouse is the conservator or is incapacitated, then to a parent or adult child who is not serving as conservator;
- The guardian ad litem if one was appointed by the court;
- The court-appointed attorney.

STEP 5 Complete and file other court papers: Complete the PROOF OF NOTICE stating how and when you gave notice to interested persons. Make **2 extra copies** of each of the following documents. Then file the originals with the Probate Clerk of Court, and get the conformed copies back from the Clerk.

- | | | |
|---|---------------|---------------------------|
| • Notice of Hearing | File original | Get back 2 stamped copies |
| • Proof of Notice | File original | Get back 2 stamped copies |
| • Waiver of Notice
(if signed by interested parties) | File original | Get back 2 stamped copies |

STEP 6 Give copies of everything to the Judge/Commissioner: At least **10 days** before your non-appearance hearing, **mail or hand-deliver** the following documents to the Judge/Commissioner who is hearing your case. All the copies must be the ones that you had conformed by the Clerk of Court when you filed the original:

- **Copy** of NOTICE OF HEARING
- **Copy** of PROOF OF NOTICE
- **Original and 2 copies** of the ORDER REGARDING PETITION FOR APPROVAL OF ACCOUNTING, **AND**
- **Copy** of the PETITION FOR APPROVAL OF ANNUAL ACCOUNTING.

You do not need to come to the “non-appearance” hearing. The purpose of a “non appearance” hearing is to give persons who object to the paperwork the opportunity to let the Judge/Commissioner know they have an objection. So, if someone shows up at the scheduled “non appearance hearing”, the Court will reset the hearing for a new date, time and place. You will get notice of the new hearing date in the mail from the Court. If you receive a new hearing date, you must go to the hearing.

Court approval of the Annual Accounting and fees is required. At or after the “non-appearance” hearing date, the Judge/Commissioner will decide whether to approve the petition, or ask you to give additional information. If the petition is not approved, be sure to follow the instructions on the court order you receive from the Judge/Commissioner.

OTHER HELP: If you still have questions about this procedure, you can ask a lawyer for legal advice. You can look up a lawyer in the telephone book under “attorneys”. Also, the Self-Service Center has a list of lawyers who will help you help yourself.

SELF SERVICE CENTER

INSTRUCTIONS: SIMPLIFIED ACCOUNTING GUIDELINES FOR PROBATE ACCOUNTS

READ ME. The court accountant has prepared Accounting Guidelines for Probate Accounts. To use these Guidelines, you should have a copy of the Superior Court Form for SUBMISSION OF FINAL ACCOUNTING. If you are not sure how to complete the court papers, contact an accountant or a lawyer for help.

BACKGROUND INFORMATION. The following information is to assist you in preparing an account of the estate for approval by the Judge/Commissioner. The purpose of an account is to present financial information in a format which is meaningful to the interested parties. The account should be understood by persons who are not accountants and lawyers. The information should be presented in a simple but complete format to help everyone understand the administration of the estate. Parties should easily be able to determine what came into the estate, what went out, and what is left in the estate at the end of the accounting period.

1. **Number of this Accounting:** Number the account you are submitting (1st, 2nd, 3rd, and so forth). The last account (when the minor has reached age 18, or the adult dies, or the conservatorship is ended, or the administration of the estate is closed) should be numbered and called "Final" (for example: the Tenth and Final).
2. **Time period:** Write the dates for which this accounting was prepared (for example: March 1, 1995 to February 28, 1996).
3. **Bond:** If this applies to your case, write in the current bond amount. Write in the amount the bond should be increased or decreased based on the amount that will cover the estate's unrestricted assets plus the unrestricted income for the next accounting period (generally one year).
4. **FINANCIAL STATEMENTS:** ATTACH TO THE ACCOUNTING COPY FOR THE COURT ACCOUNTANT, PHOTOCOPIES OF FINANCIAL STATEMENTS TO RECONCILE THE ENDING BANK AND INVESTMENT ACCOUNT BALANCES TO THE ACCOUNTING. . **DO NOT ATTACH OR FILE ANY FINANCIAL STATEMENTS WITH THE ORIGINAL ACCOUNTING FILED WITH THE PROBATE CLERK.**

ACCOUNT SUMMARY:

INSTRUCTIONS: Complete lists A through F. Then, write the final amounts from each list on the Account Summary.

LIST A: BEGINNING BALANCE:

- If this is the First Account, use the Inventory and Appraisal figure you submitted when you were appointed. If this is the Second Account or any other account, use the same information you used as the ending balance for the previous Account. You can copy the ending balance from the previous account and write the amount in **LIST A**.
- List the account **type** and institution for all bank accounts. List all assets with an adequate description so that the asset can be located and identified (addresses of properties, year, make, and model of vehicles, insurance company name and policy number, and so forth). List life insurance policies at cash value (or if a carrying value is used, then report the cash value in the Information Schedule on Investments).
- Include with the beginning and ending assets all information about any debts owed or liens on the assets, like a house or automobile. Include the following information about the debt or lien:
 - 1) The payee,
 - 2) Principal balance,
 - 3) Interest rate, and
 - 4) Pay-off date.

Note: Be sure that if any assets are restricted you label them "restricted."

After you finish List A, put the total at the bottom of the page on line A of page 1.

LIST B: MONEY RECEIVED DURING THIS ACCOUNT PERIOD:

- Only list items which represent **income** to the estate during this account period.
- Itemize all money received by:
 - 1) Date of receipt,
 - 2) Payer,
 - 3) Description by type of receipt (interest income, dividends, social security, and so forth), and other details to identify the income source (such as account numbers), and amount.
- If you have a lot of receipts (more than two pages for **List B**), group some receipts together. For example, report the total interest earned from one particular account on one line. In addition, if you group the receipts together, you must keep a back-up schedule detailing the money received under each group and attach a copy of the back-up schedule to this form.
- Do not include transfers of funds from one account to another within the same estate. Report transfers of funds on an additional paper. Report anytime you closed or opened an account, cashed in or purchased an insurance policy, or any other transfer of funds in which the original form of the asset is discontinued or a new asset is obtained.

After you finish List B, put the total at the bottom of the page on line B of page 1.

LIST C: SCHEDULE OF ALL GAINS DURING THIS ACCOUNT PERIOD:

- Write the details of sales with gains. This includes:
 - 1) The date of sale,
 - 2) Purchaser (person sold to),
 - 3) Description of what was sold, and
 - 4) The amount gained (sale price minus fees, and minus the value of the asset as reported in the previous Account or Inventory and Appraisalment).

Note: If you sold an asset but had no gain and no loss, you must still report the transaction and list the gain as zero.

- You should also list other increases to the estate on **List C** and add them to the total at the bottom of the page. Increases to the estate may include:
 - 1) Assets you did not know about at the last accounting but now you do;
 - 2) Assets that increased in value since the last accounting, such as investments or insurance, and so forth.

Note: You should only show increases or decreases in value of an asset if the value can be supported by documentation (such as a written appraisal, or when the market value is easily available, as for securities).

- For most assets other than investments or insurance, it is not necessary to adjust the values of the assets. You do not need to obtain appraisals (or otherwise incur unnecessary expenses) to adjust an asset's value for an account. However, if you are aware of a significant change in value of an asset, you should mention it in a note at the bottom of **List C**.
- Show marketable securities at the carrying value and the current value in a separate list on investments. The difference between these values is the adjustment. If you want to carry the investment at the carrying value (no adjustment is made), you should still attach another list on investments showing the carrying values with the current market values (the same information needed for an adjustment). This is necessary to assess your investment performance and the appropriate bond level when you prefer not to adjust assets such as marketable securities to current market value.

After you finish List C, put the total at the bottom of the page on line C of page 1.

LIST D: MONEY SPENT (DISBURSEMENTS) DURING THIS ACCOUNT PERIOD:

- Now you need to list money you spent on behalf of the estate during the Account period. Only include items which are expenses of the estate. List the following:
 - 1) Date,
 - 2) Person you paid,
 - 3) Purpose of expense, **AND**
 - 4) Amount.

Note: If the expense is unusual or appears questionable, you should provide additional information in a note attached to **List D**.

- If you have many transactions to report (generally more than 4 pages), group them into categories. For example, all expenses for nursing care may be shown on one line. These categories must be specific. **Categories such as "miscellaneous" and "cash" are not acceptable.** Grouped expenses must also list purpose and payee. In addition, if you group the receipts together, you must keep a back-up schedule detailing the money received under each group and attach a copy of the back-up schedule to this form.
- Transfer of funds are not receipts or disbursements and should be reported on a paper attached to **List B**. A "purchase" for purposes of investment is a transfer of funds and not a disbursement.
- Distributions of an estate in probate are also reported on **List D**. Describe each disbursement by date, payee, purpose, and amount.

After you finish List D, put the total at the bottom of the page on line D of page 1.

LIST E: SCHEDULE OF LOSSES DURING THIS ACCOUNT PERIOD:

- List all losses and show:
 - 1) The date,
 - 2) The purchaser,
 - 3) Description of the transaction, and
 - 4) The amount of loss. Loss means price minus fees and minus the carrying value of the asset (the value of the asset as you reported it in the previous Account or Inventory and Appraisal).

Note: If you sold an asset at neither a gain nor a loss, report the transaction and show a gain of zero in List C.
- List other decreases to the estate. Decreases may include:
 - 1) Decreases in values of assets,
 - 2) Loss of assets, and so forth.

As with gains, you should only list a decrease in value if they are supported with documentation such as an appraisal, or are readily ascertainable, as with value of marketable securities. List all adjustments to the value of marketable securities with carrying value and current market value.

- For most assets which are not investments you do not need to adjust the value, but you should disclose a significant loss in value in a note at the bottom of **List E**. For example you cannot take depreciation adjustments. If you are aware that the property is worth well below the carrying value, you should state your estimate of the current value on **List E**.

After you finish List E, put the total at the bottom of the page on line E of page 1.

LIST F: VALUE OF PROPERTY AT END OF ACCOUNTING PERIOD:

- List everything remaining in the estate at the end of the accounting period. This is the state of all assets after all the transactions of the Account have occurred.
- List all assets that exist at the end of the account period. Be specific so that the assets can be identified and located (account **type**, banks, property addresses). As with **List A**, also include any debts owed or liens on the assets, like a house or automobile. Include the following information about the debt or lien:
 - 1) Payee Name,
 - 2) Principal balance,
 - 3) Interest rate, and
 - 4) Pay-off date.

Finally, label any restricted assets as "restricted."

After you finish List F, put the total at the bottom of the page on line F of page 1.

**ATTACH TO THE COPY OF THE ACCOUNTING FOR THE COURT ACCOUNTANT,
PHOTOCOPIES OF FINANCIAL STATEMENTS RECONCILING THE BANK AND
INVESTMENT ACCOUNT BALANCES TO THE ACCOUNTING FOLLOWING LIST F.
THESE PHOTOCOPIES WILL BE KEPT SECURE AND CONFIDENTIAL.**

GO BACK TO THE ACCOUNT SUMMARY: Now that you have completed Lists A through F, check to be sure you filled in the blanks on the Account Summary as follows:

- Enter the beginning balance of the account from the total at the bottom of **List A**;
- Add the total money received during the account period from the total at the bottom of **List B**;
- Add the gains on property from the total at the bottom of **List C**;
- Subtract the money spent (disbursed) from the total at the bottom of **List D**;
- Subtract the losses on property from the total at the bottom of **List E**;
- The total should be the same as the total you entered at the bottom of **List F**.

COMMON ERRORS: These are common errors the Court Accountant finds in Accounts.

- **Addition.** The total at the bottom of each list must be the same as the amount you put on the Account Summary, page 1. Double-check all the totals on your lists.
- **An incorrect beginning balance.** The beginning balance must match the ending balance of the previous Account or Inventory. If the ending balance of the previous Account or the Inventory was wrong, use it anyway, and make corrections on **List C** for gains or **List E** for losses, and explain what you are doing.
- **Value of assets on Lists A and F.** All valuable estate assets should be included on both lists.
- **Social Security Income survivor benefits for minors.** Often, the proceeds of a settlement are properly reported but the conservator for the minor fails to report the Social Security benefits received. Report these benefits as receipts on **List B**, and report expenditures of these funds on **List D**.
- **Omission of expenses on List D that were not paid by check.** Generally, you should not make cash withdrawals. You should use checks whenever possible to document the expenses. If you do pay for something other than by check, save all vouchers, receipts, statements, and other supporting documentation to prove the transaction, in case of questioning or audit. This includes bank charges and cash withdrawals.
- **Bond increase.** The bond should be set to cover the unrestricted assets plus the unrestricted income of one accounting period (generally one year). Often, the fiduciary fails to ask for a bond increase when the estate assets have increased from what they were the previous year.
- **How to describe an expense.** "Reimbursement" is not an adequate description for a disbursement. You must state the purpose of the expense, not just that you were paid back. If an expense is incurred pursuant to a Court order, the description of the disbursement should say this, and the date of the Court order.
- **Unusual expenditures** with no explanation will be questioned. If there has been an unusual expenditure and/or a substantial change in the expenditures when compared to a prior account, you should provide a written explanation along with the Account.
- **Payments to credit cards** and other similar disbursements may be questioned. You should state whether the expenditure was made on existing charges before you took over this administration. If you are using credit cards, you must report the expenditures made on credit in detail. The court might require you to submit credit card statements for the accounting period and/or from the time you were appointed.
- **Do not attach forms that were not actually filled out and necessary.** *All possible forms necessary are provided in the forms package and not all of them may be necessary or should not be filled out and filed until after the Court Accountant has reviewed the accounting.*
- **All Computer generated forms or pages should be prepared with type (font) large enough to be easily read (not less than 12 point type size).**

Note: It would be helpful for you to keep all credit card statements from the time you were appointed in case you need to provide these to the court.

SUPERIOR COURT OF ARIZONA, MARICOPA COUNTY
PROBATE/MENTAL HEALTH DEPARTMENT

FIDUCIARY FEE GUIDELINES
OCTOBER 1994

A. SUGGESTED FEE SCHEDULE

Service Provided

Fee Allowed

- | | |
|--|--------------------------------------|
| 1. Setup fee for a guardian, conservator, or guardian/conservator for referral, investigation, and setup, allowed in the first year only. | \$600 total
(Allowed once) |
| 2. Annual fee for a guardian for annual client contact with the ward or protected person based upon monthly personal contact by the fiduciary or an employee trained in social work. (See note D regarding fees for companionship services.) | \$900/annually |
| 3. Annual fee for a conservator for estates of \$100,000 or less, plus .2% of the average value of the estate for the year in excess of \$100,000. | \$300/annually
plus .2% |
| 4. Check writing fee for a conservator for each check written in excess of 5 checks per month. No charge will be allowed for the first 5 checks written each month. There shall be no charge for checks written to the fiduciary and the fiduciary's attorney and these shall not be counted toward meeting the "first five free" provision. | \$10 per check |
| 5. Management fee for a conservator, generally not to exceed 3% annually of total receipts and disbursements. Neither the fiduciary's fee nor the fiduciary's attorney's fee shall be included in the disbursement total. The fiduciary's expertise, amount of work and investment performance will all be considered in determining the amount of the management fee. (This fee is in addition to the annual fee.) | Not to exceed 3% |

NOTES:

- A. Extraordinary fees must be justified by a showing of necessity and billed at a reasonable hourly rate.
- B. Extraordinary costs must be necessary, reasonable, and documented.
- C. Any anticipated extraordinary fees must be explained in the estate management plan and on the fiduciary's itemized fee statement and affidavit.
- D. Companionship services should not exceed \$15.00 an hour plus mileage at \$0.29/mile. These are companionship services over and above the once monthly social worker contact already covered by the annual fee for guardian. (See #2 under suggested fee schedule.)
- E. Contract or "out-sourced" services (those services not performed by an employee of the fiduciary) provided to the ward or protected person for such things as accounting services, tax preparation, visitation, guardianship services, investment management and bookkeeping shall be billed to the ward in the same amount as paid by the fiduciary for each such service.

The Court does not endorse the practice of a fiduciary "marking up" or adding a profit margin to services which the fiduciary does not provide with the fiduciary's own employees. For example, if the fiduciary used an outside accountant to prepare the accounting for a fee of \$250.00, the fiduciary is allowed to charge the ward only the \$250.00. The fiduciary is allowed to charge for any related services provided by the fiduciary such as supervision or monitoring of the contract service provider.

B. FIDUCIARY DUTIES - FIRST YEAR TYPICAL SERVICES

1. Pre-Court Appointment

- a. Meet prospective client and assess client's physical and mental status, need for guardianship, conservatorship, or both; assess placement needs.
- b. Contact family/friends regarding referral, prospective client's status, possible court proceedings, and willingness to serve.
- c. Obtain financial information. (When the referral is from Adult Protective Services or an attorney, this information is usually complete. If the referral is from another source, such as a hospital social worker, this information may be incomplete.) You may need to establish a relationship with the prospective client to review client financial records. (Financial records may be in "good condition" or in bags, boxes, and under beds.)
- d. Contact physician for medical opinion and to obtain medical report. (May require taking prospective client to physician's office).
- e. Meet with attorney to provide case information and begin legal proceedings.
- f. Monitor prospective client (when necessary) pending court proceedings.

2. Obtain Court Appointment

- a. Attend hearing.
- b. Obtain surety bond.
- c. Obtain certified copies of Letters.

3. Post Court Appointment

- a. Record Letters, if there is real property.
- b. Change the mailing address for client's mail.
- c. Obtain all insurance information.
- d. Contact all financial institutions to close accounts, transfer funds, supersede on accounts, restrict accounts and change mailing address for statements, etc.
- e. Change Payee for Social Security payments.
- f. Contact all sources of income to change mailing addresses.
- g. Contact all medical insurance companies and other insurance companies to obtain information on coverage and to change mailing address.
- h. If real property, obtain condition of title report and appraisal, if necessary.
- i. If real property, contact Assessor and County Treasurer to change mailing address of all records.
- j. If there is an automobile, obtain title or duplicate title and check liability insurance coverage.
- k. If stocks and bonds, either transfer into street name in a brokerage account or change mailing addresses on all issues. Obtain "basis" information when possible.
- l. If furniture/personal property, list and obtain appraisal when necessary.
- m. Determine tax status, obtain copies of prior years' returns.
- n. Determine testamentary status, obtain original or copy of will.
- o. Determine funeral arrangements.
- p. Obtain information required for death certificate.
- q. Prepare inventory for filing with court.

4. Nursing Home Placement. Supervise and coordinate client's needs.

- a. Medical, dental and optical appointments.
- b. Medical treatments.
- c. Medication.
- d. Social and emotional needs.
- e. Clothing and personal items.

C. FIDUCIARY DUTIES - EXTRAORDINARY SERVICES

1. Home Placement (Provide 24 Hours On Call Services)

- a. Obtain staff.
- b. Supervise staff.
- c. Schedule staff.
- d. Prepare payroll.
 - i. Compute withholdings on paychecks.
 - ii. Prepare quarterly and yearly reports.
 - iii. Obtain workers' compensation coverage.
 - iv. Obtain unemployment coverage.
- e. Maintain house.
- f. Maintain auto, if necessary.
- g. Oversee household monies.
 - i. Obtain receipts.
 - ii. Reconcile monthly.
- h. Supervise and coordinate client's personal needs.
 - i. Nutrition.
 - ii. Hair appointments.
 - iii. Medication.
 - iv. Medical treatments.

2. Adult Foster Care Placement: Supervise and Coordinate Client's Needs.

- a. Medical, dental, and optical appointments.
- b. Medical treatments.
- c. Medication.
- d. Social and emotional needs.
- e. Clothing and personal items.

3. Companionship Services (See Notes D and E above regarding charges)

- a. Social visits.
- b. Accompany for lunch, walks, shopping.
- c. Prepare correspondence.
- d. Routine physician visits or follow-up and status reporting.

D. FACTORS THAT MAY MAKE FIDUCIARY SERVICES EXTRAORDINARY

1. Review of papers and documents, which are in disarray, to identify and locate assets.
2. Notification of banks and financial institutions of estate status.
3. Obtaining insurance record information.
4. Sorting through boxes or files for information.
5. Degree of ease in accessing information.
6. Sizeable number of financial institutions to contact.
7. Family disagreement or dissention.
8. Character and values of family members, business associates of the ward and others.
9. Level of cooperation from client/ward.
10. Medical or placement crisis with the ward.
11. Level of monitoring required by ward.

E. CHECKLIST FOR EVALUATION OF FEES (for evaluation of cases with fees in question)

1. What are the total administrative expenses? Attorney's fees, fiduciary fees, accountant, investment advisor, tax preparation, etc.
2. What is the make-up of the estate and its gross value? Cash, stocks, bonds, a business, real estate, art, antiques, collections.

3. What is the estate income?
4. What kind of management of assets was required?
5. Did real estate require more than routine management?
6. Did a business have to be run?
7. Who performed the various tasks? Were the tasks appropriate to the person performing them? Were billed tasks performed by an attorney which could have been performed by a paralegal, secretary, runner, accountant?
8. Was the time spent on any task excessive?
9. Were the tasks performed necessary? (In a probate, for example, could the property have been distributed by affidavit? Was a formal, court-approved accounting necessary?)
10. In a guardianship or conservatorship, what aspects of the ward's condition required unusual time and effort?
11. Who are the relatives/heirs/devisees? Did contentiousness among interested persons cause unusual expenditures of time and effort?
12. Is the hourly rate acceptable?
13. Are the attorney's and fiduciary's records of time spent and tasks performed complete and specific?
14. Are there duplications of time?
15. Was research billed in areas which should not have required research?
16. Are there steps an attorney should have taken to eliminate the need for litigation or unusual activities? A recent memorandum decision reverses a trial court's allowance of fees in a conservatorship because the attorney did not act "with reasonable care to avoid the unnecessary use of his service by the guardian and conservator". The attorney billed for services necessitated by the conservator's failure to perform and the attorney was therefore in breach of his fiduciary duties under Fickett because he did not act quickly to have the conservator (his client) removed. In the Matter of the Guardianship and Conservatorship of Harsh, Maricopa County Public Fiduciary v Finks, 1 CA-CV 92-0118 (1994).
17. Are the persons who received a copy of the accounting or petition for fees sufficiently competent or sophisticated to object, or is their interest (financial or otherwise) such that it's not worth the hassle?